

Consumer Product Safety Commission

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(d) In deciding whether to grant or deny an exemption request, the Commission considers the following general criteria:

(1) *The degree to which the exemption if granted would expose consumers to an increased risk of injury:* The Commission does not believe it should exempt products which would present a significantly greater risk to consumers than complying products. Therefore, the Commission will not grant exemption requests in such cases.

(2) *The cost to the Commission of granting emergency requests:* Granting emergency exemption requests will in most cases require drafting a proposed and a final amendment or a statement of enforcement policy for publication in the FEDERAL REGISTER. Such action may also require the Commission to monitor the sale or distribution of the products. These activities consume scarce Commission resources. In some instances, the costs to the Commission may exceed the benefit to be derived by a company and similarly situated companies. If so, the Commission may deny the request on this ground.

(3) *The precedential effect of exempting some products:* The Commission recognizes that decisions to exempt some products set precedents in at least two ways. First, they indicate to companies that the CPSC will permit deviations to a given regulation. Second, they indicate to companies that the CPSC will permit deviations to regulations in general. Both precedents, if set carelessly by the CPSC, could result in many requests for exemption and could undermine the stability and integrity of the Commission's regulations.

(e) In deciding whether to grant or deny an exemption request, the Commission also considers the following factors which relate specifically to the company making the request: (If the request is granted, all similarly situated companies, however, will be accorded the same relief).

(1) *The nature of the emergency exemption request:* The Commission will not reward bad quality control or faulty design work by permitting companies to market their mistakes. Although it is difficult to detail specific instances, the Commission is sympathetic to companies that produced noncom-

plying products due to factors beyond their immediate control or despite their best efforts.

(2) *The economic loss which a company will suffer if its emergency request is denied:* The greater the loss a company may suffer the more likely the Commission will favorably consider an exemption. However, the Commission does not believe economic loss alone should be determinative of an emergency exemption request.

(3) *The fairness to competitors:* The Commission is reluctant to grant relief if it could place the company at an unfair competitive advantage over other companies which have successfully complied with the same regulation. Therefore, the Commission will afford the same relief to similarly situated companies, and will decline to grant a request where unfair competitive advantage may result.

(15 U.S.C. 1191, 1261, 1471, 2051, 2111)

[44 FR 40639, July 12, 1979]

PART 1010 [RESERVED]

PART 1011—NOTICE OF AGENCY ACTIVITIES

Sec.

1011.1 General policy considerations; scope.

1011.2 Definitions.

1011.3 General requirements for various kinds of meetings.

1011.4 Forms of advance public notice of meetings; Public Calendar/Master Calendar and FEDERAL REGISTER.

AUTHORITY: 5 U.S.C. 552b(g); Pub. L. 92-573, 86 Stat. 1207 (15 U.S.C. 2051-81) as amended by Pub. L. 94-284, 90 Stat. 503, Pub. L. 95-319, 92 Stat. 386, Pub. L. 95-631, 92 Stat. 3742; Pub. L. 90-189, 81 Stat. 568 (15 U.S.C. 1191-1204); Pub. L. 86-613, 74 Stat. 372, as amended by Pub. L. 89-756, 80 Stat. 1303, and Pub. L. 91-113, 83 Stat. 187 (15 U.S.C. 1261-74); Pub. L. 91-601, 84 Stat. 1670 (15 U.S.C. 1471-76) and the Act of Aug. 7, 1956, 70 Stat. 953 (15 U.S.C. 1211-14).

SOURCE: 46 FR 38322, July 24, 1981, unless otherwise noted.

§ 1011.1 General policy considerations; scope.

(a) In order for the Consumer Product Safety Commission to properly carry out its mandate to protect the

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public from unreasonable risks of injury associated with consumer products, the Commission has determined that it must involve the public in its activities to the fullest possible extent.

(b) To ensure public confidence in the integrity of Commission decision-making, the Agency, to the fullest possible extent, will conduct its business in an open manner free from any actual or apparent impropriety.

(c) This part 1011 presents general provisions concerning public notice for various types of Agency activities.

§ 1011.2 Definitions.

As used in this part 1011, the following terms shall have the meanings set forth:

(a) *Agency*. The entire organization which bears the title Consumer Product Safety Commission (CPSC).

(b) *Agency staff*. Employees of the Agency other than the five Commissioners.

(c) *Commissioner*. An individual who belongs to the collegial body heading the CPSC.

(d) *Commission*. The Commissioners of the Consumer Product Safety Commission acting in an official capacity.

(e) *Commission Meeting*. A meeting of the Commissioners subject to the Government in the Sunshine Act, 5 U.S.C. 552b. This term is more fully defined in the Commission's regulations under the Government in the Sunshine Act, 16 CFR part 1013.

(f) *Agency meeting*. A meeting between Agency personnel, including individual Commissioners, and outside parties. This term and the term "outside party" are more fully defined in the Commission's Meeting Policy, 16 CFR part 1012.

§ 1011.3 General requirements for various kinds of meetings.

Meetings which involve Agency staff or the Commissioners, other than Commission meetings, are classified in the following categories and shall be held according to the procedures outlined within each category.

(a) *Hearings*. Hearings are public inquiries held by direction of the Commission for the purpose of fact finding or to comply with statutory requirements. The Office of the Secretary is

responsible for providing transcription services at the hearings. Where possible, notice of forthcoming hearings will be published in the Public Calendar and the FEDERAL REGISTER at least 30 days before the date of the hearings.

(b) *Meetings between Commissioners or Agency staff and outside parties*. The requirements for Agency meetings between Commissioners or Agency staff and outside parties involving substantial interest matters are contained in 16 CFR part 1012.

(c) *Commission meetings*. The requirements for Commission meetings under the Government in the Sunshine Act, 5 U.S.C. 552b are contained in 16 CFR part 1013.

(d) *Staff meetings*. As a general rule, only Agency employees attend staff meetings. At the discretion of the participants, Staff meetings may be listed on the Public Calendar and attendance by the public may be permitted. Recordkeeping is at the discretion of the participants.

(e) *Advisory committee meetings*. Meetings of the Agency's advisory committees are scheduled by the Commission. Advance notice will be given in both the Public Calendar and the FEDERAL REGISTER. Advisory committee meetings serve as a forum for discussion of matters relevant to the Agency's statutory responsibilities with the objective of providing advice and recommendations to the Commission. The Agency's advisory committees are the National Advisory Committee for the Flammable Fabrics Act, the Product Safety Advisory Council, the Technical Advisory Committee on Poison Prevention Packaging and the Toxicological Advisory Board. The Office of the Secretary is responsible for the recordkeeping for such meetings. The Commission's regulation for the management of its advisory committees is set out in 16 CFR part 1018.

§ 1011.4 Forms of advance public notice of meetings; Public Calendar/Master Calendar and Federal Register.

Advance notice of Agency activities is provided so that members of the public may know of and participate in these activities to the fullest extent

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possible. Where appropriate, the Commission uses the following types of notice for both Agency meetings subject to 16 CFR part 1012 and Commission meetings subject to 16 CFR part 1013:

(a) *Public Calendar/Master Calendar.*

(1) The printed Public Calendar and the Master Calendar maintained in the Office of the Secretary are the principal means by which the Agency notifies the public of its day-to-day activities. The Public Calendar and/or Master Calendar provide advance notice of public hearings, Commission meetings, Agency meetings with outside parties involving substantial interest matters, other Agency meetings, selected staff meetings, advisory committee meetings, and other activities such as speeches and participation in panel discussions, regardless of the location. The Public Calendar also lists recent CPSC FEDERAL REGISTER issuances and Advisory Opinions of the Office of the General Counsel.

(2) Upon request in writing to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, any person or organization will be sent the Public Calendar on a regular basis free of charge. In addition, interested persons may contact the Office of the Secretary to obtain information from the Master Calendar which is kept current on a daily basis.

(3) The Public Calendar and the Master Calendar, supplemented by meeting summaries, are intended to serve the requirements of section 27(j)(8) of the Consumer Product Safety Act (15 U.S.C. 2076(j)(8)).

(b) *Federal Register.* FEDERAL REGISTER is the publication through which official notifications, including formal rules and regulations of the Agency, are made. Because the Public Calendar and/or Master Calendar are the primary devices through which the Agency notifies the public of its routine, daily activities, the FEDERAL REGISTER will be utilized only when required by the Government in the Sunshine Act (as provided in 16 CFR part 1013) or other applicable law, or when the Agency believes that the additional coverage which the FEDERAL REGISTER can provide is necessary to assist in notification to the public of important meetings.

PART 1012—MEETINGS POLICY—MEETINGS BETWEEN AGENCY PERSONNEL AND OUTSIDE PARTIES

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1012.1 General policy considerations; scope.

1012.2 Definitions.

1012.3 Advance public notice of agency meetings.

1012.4 Public attendance at agency meetings.

1012.5 Recordkeeping for agency meetings.

1012.6 The news media.

1012.7 Telephone conversations.

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SOURCE: 46 FR 38323, July 24, 1981, unless otherwise noted.

§ 1012.1 General policy considerations; scope.

(a) To achieve its goals of involving the public in its activities and conducting its business in an open manner, the Agency, whenever practicable, shall notify the public in advance of all meetings involving matters of substantial interest held or attended by its personnel, and shall permit the public to attend such meetings. Furthermore, to ensure the widest possible exposure of the details of such meetings, the Agency will keep records of them freely available for inspection by the public.

(b) This part 1012, the Agency's Meetings Policy, sets forth requirements for advance public notice, public attendance, and recordkeeping for Agency meetings.

§ 1012.2 Definitions.

(a) As used in this part 1012, the following terms have the respective meanings set forth in paragraphs (a)-(d) of §1011.2 of this subchapter: "Agency," "Agency staff," "Commissioner," "Commission."

(b) *Agency meeting.* Any face-to-face encounter, other than a Commission meeting subject to the Government in